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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/885,254 | 08/31/2000 | Hans P. Dietz | 99-639L | 3305 |

719 7590 12/20/2004

CATERPILLAR INC.
100 N.E. ADAMS STREET
PATENT DEPT.
PEORIA, IL 616296490

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| EXAMINER |
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BEACH, THOMAS A

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| ART UNIT | PAPER NUMBER |
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3671

DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/885,254

Applicant(s)

DIETZ ET AL.

Examiner

Thomas A Beach

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 August 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

1. The preliminary amendment filed 08/31/2000 to claim 4 has not been properly submitted with the additions underlined and the deletions with strike through lines, and in addition applicant must supply a clean copy of all the claims pending. Claim 4 will be treated on the merits as though the amendment was entered.

Claim Objections

2. Claim 6 is objected to because of the following informalities: on line, "the bucket" lacks antecedent basis. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Gardner et al 5,701,793. Gardner et al shows the method and apparatus for use with a work machine, having a work implement including a boom and an attachment; an operator controlled joystick 219 that produces an operator command signal for controlling the movement of the work implement; implement position sensors 216, 218 that sense the elevational position of the boom and tilt pivotal position of the attachment, and

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responsively produce respective implement position signals; a controller 208 that receives the implement position signals and operator command signal, compares the relative position of said boom and said attachment with a predetermined boundary condition (col. 3, lines 19-21), and produces an electrical valve signal; and valve assembly 202 that receives said electrical valve signal and controllably provides hydraulic fluid flow to at least one hydraulic cylinder 106A,B, 114 in response to a magnitude of said electrical valve signal (col. 6, lines 1-21).

As concerns claims 2, 4, and 10, Gardner shows storing a look-up table that stores a plurality of scaling values that correspond to the position of the lift and the tilt cylinders (col. 4, lines 1-14).

As concerns claims 5, 11, 14-15 and 18, Gardner shows the controller 202 selects a scaling value from the respective look-up table in response to the respective boom position and attachment position, and responsively produces the electrical valve signal having a magnitude corresponding to the selected scaling factor (col. 4, lines 15-25 & 52-67).

As concerns claims 6-7, Gardner shows implement position signal corresponding to the elevational position of the boom is indicative of the lift cylinder extension, and the implement position signal corresponding to the pivotal position of the bucket (claim 7) is indicative of the tilt cylinder extension (figure 5).

As concerns claim 8, Gardner shows an operator controlled joystick that produces an operator command signal for controlling the movement of the work implement (figure 2).

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As concerns claims 9, 12, 15-16 and 19, Gardner shows controller receives the implement position signals and said operator command signal, determines the relative position of the boom and the attachment, and produces an electrical valve signal corresponding to the relative position of the boom and the attachment (col. 4, lines 25-44) and corresponds to a rack or dump stop (col. 5, lines 7-14).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas A Beach whose telephone number is 703.305.4848. The examiner can normally be reached on Monday-Thursday, 8:00am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 703.308.3870. The fax phone numbers for the organization where this application or proceeding is assigned are 703.872.9306 or 703.872.9306 for regular communications and 703.872.9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.306.4198.

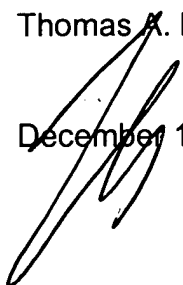
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Thomas A. Beach

December 13, 2004

A handwritten signature in black ink, appearing to be 'T. Beach', written over the date 'December 13, 2004'.